

SAAC-16743

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Contract No. [REDACTED]
Amendment No. 1

25X1A

26 JUN 1957

25X1A

Gentlemen:

1. This document constitutes Amendment No. 1 to Contract

[REDACTED] and the United States Government.

25X1A

2. It has been mutually agreed between the parties hereto to revise the scope of work to be performed under the contract to meet additional requirements of the Government.

3. The Schedule of Contract No. [REDACTED] is therefore amended as follows:

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a. Paragraph 1. SCOPE OF WORK is deleted and the following paragraph is substituted therefor:

1. SCOPE OF WORK

The Contractor shall furnish personnel, facilities and technical and administrative direction and guidance, and, pursuant to the direction of the Contracting Officer or his authorized representative, pursue a program of research and development involving studies of certain special systems for producing electromagnetic radiation, review the state of the art and determine the probable effect of changes in certain variables on the operation of such systems, examine the feasibility of bringing about predetermined changes in the variables involved, and suggest lines of approach for the development of means for accomplishing such changes. Contractor shall set up, calibrate and operate special instrumentation designed to record the above information in the laboratory and shall furnish consultants to advise the customer in regard to similar problems at other test sites, other suppliers plants, or at other places designated by the Contracting Officer. In addition, the Contracting Officer may from time-to-time request the Contractor to perform

DOCUMENT NO. [REDACTED]
NO CHANGE IN CLASS. ☒
☐ ENCLASSIFIED
CLASS. CHANGED TO: TS S C 2011
NEXT REVIEW DATE:
AUTH: HR 10-2
DATE: 28 DEC 1981

REVIEWER: 064540

special tasks, travel, or services, technical or administrative, which bear on or which would further the solution of the problems set forth in this scope of work.

✓ b. Paragraph 3. ESTIMATED COST, is deleted and the following paragraph is substituted therefor:

3. ESTIMATED COST

The estimated cost of the performance of this contract is [REDACTED] 25X1A
No fixed-fee or profit is applicable to this contract, it being the intent of the Contractor to perform the contract work on a cost-without-profit basis.

4. All other terms and conditions of Contract No. [REDACTED] 25X1A remain unchanged.

5. Please indicate your receipt of this Amendment No. 1 to Contract No. [REDACTED] and your acceptance thereof by executing the original and two copies of this Amendment. Return the fully executed original and one copy thereof to the undersigned and retain the remaining copy for your files.

25X1A

Very truly yours,

[REDACTED]
Contracting Officer

ACKNOWLEDGED AND ACCEPTED
THIS 26th DAY OF June 1957

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SECRET

15613

NEGOTIATED CONTRACT

Contract No. [REDACTED]

25X1A

25X1A

Contract for: See Schedule

Amount: [REDACTED]

25X1A

Mail Invoices to:

Performance Period:
See Schedule

Administrative Data:

This contract is entered into by and between the United States of America, hereinafter called the Government represented by the Contracting Officer executing this contract, and the above-named Contractor which is

25X1A

The parties hereto agree that the Contractor shall furnish the facilities and deliver all supplies and perform all the services set forth in the attached schedule issued hereunder, for the consideration stated herein.

The rights and obligations of the parties to this contract shall be subject to and governed by the attached Schedule and General Provisions which together with this signature page and the accompanying Certificate comprise this Contract No. [REDACTED]. In the event of any inconsistency between the Schedule and the General Provisions, the Schedule shall control.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of JUN 21 1957 1957.

Signatures:

25X1A

THE UNITED STATES OF AMERICA

TITLE Contracting Officer

25X1A

INDEX OF SCHEDULE

	Page
SECTION I SCOPE OF WORK1
SECTION II PERIOD OF PERFORMANCE	1
SECTION III ESTIMATED COST	1
SECTION IV PAYMENT1
SECTION V AUDIT2
SECTION VI ANTICIPATORY COST2
SECTION VII LETTER CONTRACT SUPERSEDED	2
SECTION VIII SPECIAL SECURITY RESTRICTIONS3
SECTION IX WAIVER OF REQUIREMENTS OF GENERAL PROVISIONS .	3

C E R T I F I C A T E

25X1A

I, _____, certify that I am the
_____ of the Corporation named as

25X1A

Contractor herein; that _____
who signed this contract on behalf of the Contractor was then the
Assistant Treasurer _____ of said Corporation; that said
contract was duly signed for and in behalf of said Corporation by
authority of its governing body, and is within the scope of its
Corporate powers.

25X1A

signature _____ (Corporation Seal)

Contract No. [REDACTED]

25X1A

SCHEDULE

1. SCOPE OF WORK

Deleted See Para 3a A-1

The Contractor shall make a preliminary study of certain special systems for producing electromagnetic radiation; review the state of the art and determine the probable effect of changes in certain variables on the operation of such systems; examine the feasibility of bringing about predetermined changes in the variables involved and suggest lines of approach for the development of means for accomplishing such changes. Set up and direct operation, calibration and maintenance of special instrumentation designed to record the above information at a site to be designated by the Contracting Officer or his authorized representative.

2. PERIOD OF PERFORMANCE

The period of performance of the contract work hereunder shall commence on 1 July 1956 and shall be completed within the shortest practicable time, but not later than 30 June 1958, unless further extended by appropriate amendment to this contract.

3. ESTIMATED COST

*See Amend # 2 dated 5-1-58
Deleted See Para 3b A-1*

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4. PAYMENT

In accordance with the provisions of clause 4 of the General Provisions of this contract entitled "ALLOWABLE COST AND PAYMENT," the Government shall pay to the Contractor, as full compensation for the performance of this contract the Allowable Costs incurred by the Contractor in the performance of this contract and accepted by the Contracting Officer as chargeable in accordance with "Contract Cost Principles, Section XV, Part 3, Armed Services Procurement Regulations." It being understood and agreed, without limiting the generality of the foregoing, the following shall be considered as allowable items of cost hereunder when incurred or paid by the Contractor and when necessary and required and used for the performance of the work hereunder:

Indirect Costs:

(a) Overhead Period - The period as contemplated by paragraph (b) of clause 32 of the General Provisions hereof entitled "Negotiated Overhead Rates", shall be for twelve (12) months each. The first period under this contract shall be from 1 July 1956 to 30 June 1957.

(b) Negotiated Provisional Rates - In accordance with the clause "Negotiated Overhead Rates" the Contractor shall be reimbursed for Indirect Costs (Overhead) at the Negotiated Provisional Rates stated below. Such rates shall be applied to the costs of Direct Salaries and Wages, and shall include overtime premiums, sick leave, jury time, military training duty, time of active reserves, and vacations (except vacation costs 25X1A

25X1A

It is understood and agreed that Indirect Costs (overhead) to be applied to this contract shall be in accordance with the principles and policies negotiated between the Contractor and the cognizant audit service of the Department of Defense for similar contract work.

5. AUDIT

Audit of costs hereunder shall be by the cognizant military audit agency, in accordance with security requirements which shall be agreed upon between the Contractor and the Contracting Officer.

6. ANTICIPATORY COST

All costs which have been incurred by the Contractor on or after 1 July 1956, in anticipation of and prior to the signing of this contract, and which if incurred after the signing of this contract would have been considered as items of Allowable Costs hereunder, will be accepted by the Contracting Officer as cost under this contract.

7. LETTER CONTRACT SUPERSEDED

This is the Definitive Contract contemplated by the Letter Contract accepted by the Contractor under date of 5 October 1956. This Definitive Contract supersedes said Letter Contract. Work performed under said Letter Contract shall be deemed to be work performed under this Definitive Contract. The date of the Letter

Contract shall govern for the determination of the priority status of the Definitive Contract. In the event of conflict between this Definitive Contract and said Letter Contract, this Definitive Contract shall prevail.

8. SPECIAL SECURITY RESTRICTIONS

The Contractor shall not reveal (i) the specific nature or any details of the work being performed hereunder or (ii) any information whatsoever with respect to the department of the Government sponsoring this contract and the work thereunder except as the Contractor is directed to reveal such information by the Contracting Officer or by his duly authorized representative for security matters, and, notwithstanding any clause or section of this contract to the contrary, the Contractor shall not interpret any clause of this contract as requiring or permitting divulgence of such information to any person, public or private, or to any officer or department of the Government without the express consent of the Contracting Officer or his duly authorized representative for security matters.

9. WAIVER OF REQUIREMENTS OF GENERAL PROVISIONS

Notwithstanding the requirements of any of the General Provisions of this contract to the contrary, whenever the Contractor, in performance of the work under this contract, shall find that the requirements of any of the clauses of the General Provisions are in conflict with security instructions issued to the Contractor by the Contracting Officer or by his duly authorized representative for security matters, the Contractor shall call the attention of the Contracting Officer to such conflict and the Contracting Officer or his duly authorized representative for security matters shall (i) modify or rescind such security requirements or (ii) the Contracting Officer shall issue to the Contractor a waiver of compliance with the requirements of the General Provisions conflicting with such security requirements. Any waiver of compliance with the General Provisions of this contract issued by the Contracting Officer shall be in writing, except that the approval by the Contracting Officer of any subcontract issued hereunder by the Contractor shall be deemed to constitute approval of waiver of any clauses of the General Provisions in conflict with the stipulations of such subcontract.

INDEX OF GENERAL PROVISIONS

1.	DEFINITIONS.....	1
2.	CHANGES.....	1
3.	LIMITATION OF COST.....	2
4.	ALLOWABLE COST, FIXED FEE, AND PAYMENT.....	3
5.	RECORDS.....	6
6.	GOVERNMENT PROPERTY.....	8
7.	INSURANCE-LIABILITY TO THIRD PERSONS.....	13
8.	INSPECTION AND CORRECTION OF DEFECTS.....	15
9.	EXCUSABLE DELAYS.....	17
10.	SUBCONTRACTS.....	18
11.	NOTICE AND ASSISTANCE REGARDING PATENT INFRINGEMENT.....	19
12.	FILING OF PATENT APPLICATIONS.....	19
13.	PATENT RIGHTS.....	20
14.	AUTHORIZATION AND CONSENT.....	23
15.	COPYRIGHT.....	23
16.	REPRODUCTION AND USE OF TECHNICAL DATA.....	24
17.	REPORTING OF ROYALTIES.....	24
18.	DISPUTES.....	26
19.	BUY AMERICAN ACT.....	27
20.	OFFICIALS NOT TO BENEFIT.....	28
21.	COVENANT AGAINST CONTINGENT FEES.....	28
22.	CONVICT LABOR.....	28
23.	EIGHT-HOUR LAW OF 1912.....	28
24.	NONDISCRIMINATION IN EMPLOYMENT.....	29
25.	WALSH-HEALEY PUBLIC CONTRACTS ACTS.....	29
26.	GRATUITIES.....	30
27.	EMPLOYMENT OF ALIENS.....	30
28.	ASSIGNMENT PROHIBITED.....	30
29.	MILITARY SECURITY REQUIREMENTS.....	31
30.	UTILIZATION OF SMALL BUSINESS CONCERNS.....	32
31.	TERMINATION FOR THE CONVICTION OF THE GOVERNMENT.....	32
32.	NEGOTIATED OVERHEAD RATE.....	34
33.	ALTERATIONS IN CONTRACT.....	35

GENERAL PROVISIONS

1. DEFINITIONS

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department and the head or any assistant head of the executive agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(c) The term "Department" means the department or executive agency of the Government represented by the Contracting Officer executing this contract on behalf of the Government.

(d) Except as otherwise provided in this contract, the term "sub-contracts" includes purchase orders under this contract.

(e) The term "contract work" means all work to be performed under this contract including any studies covering fundamental, theoretical, or experimental investigations; any extension of the investigative findings; and theories of a scientific or technical nature into practical application; any tangible items, hereinafter referred to as "supplies," if called for herein, furnished to the Government; and any reports, data, computations, plans, drawings, and specifications with respect to any of the foregoing.

2. CHANGES

The Contracting Officer may at any time, by a written order, make changes in or additions to the drawings and specifications, issue additional instructions, or require additional work within the general scope of the contract. If any such change causes an increase or decrease in

the estimated cost of, or the time required for performance of this contract, or otherwise affects any other provision of this contract, an equitable adjustment shall be made (i) in the estimated cost or delivery schedule, or both, (ii) in the amount of any fixed fee to be paid to the Contractor, and (iii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within sixty (60) days from the date of receipt by the Contractor of the notification of change; Provided, however, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

3. LIMITATION OF COST

(a) It is estimated that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost. If at any time the Contractor has reason to believe that the costs which it expects to incur in the performance of this contract in the next succeeding thirty (30) days, when added to all costs previously incurred, will exceed eighty-five percent (85%) of the estimated cost then set forth in the Schedule, or if at any time, the Contractor has reason to believe that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will be substantially greater or less than the then estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving its revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Schedule and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

4. ALLOWABLE COST AND PAYMENT

(a) For the performance of this contract, the Government shall pay to the contractor the cost thereof determined by the contracting officer to be allowable in accordance with part 3 of section XV of the Armed Services Procurement Regulation as in effect on the date of this contract and the schedule (hereinafter referred to as "Allowable Cost"). It being understood and agreed, without limiting the generality of the foregoing, the following shall be considered as allowable items of cost hereunder when incurred or paid by the contractor and when necessary and required and used for the performance of the work hereunder:

(1) Salaries and Wages. Expenditures by the contractor for the salaries and wages of its personnel and borrowed personnel directly engaged in the performance of work hereunder and properly allocable thereto including salaries and wages for vacation and sick leave pay of its personnel pursuant to the established practices of the contractor, plus Federal and State social security taxes paid by the contractor and properly allocable to such salaries and wages; Provided, however, That the premium portion of overtime wage payment shall be an allowable item of cost hereunder only if and to the extent that the overtime work for which such payments are made shall have been expressly authorized in writing by the contracting officer.

(2) Materials and Services. Expenditures by the contractor for such materials, supplies, apparatus, tooling, equipment, and other articles (including processing and testing thereof by others and rental of apparatus and equipment from others), properly allocable to performance of the work hereunder and for the services of others not reimbursed under subparagraph (1), as are necessary for performance of its undertakings hereunder.

(3) Communications and Shipping. Expenditures by the contractor necessary for performance of its undertaking hereunder for long-distance telephone calls, telegrams, cablegrams, radiograms, postage, freight, express, and drayage.

(4) Travel. Expenditures by the Contractor for transportation of the persons directly engaged in the performance of the work hereunder as approved by the Contracting Officer, plus, either reasonable actual subsistence expenses or per diem; Provided, that the expense for transportation hereunder by motor vehicle, other than common carrier or rented automobile, shall be reimbursed on an actual cost basis, or, at the Contractor's option, on a mileage basis at a rate not exceeding eight(8) cents per mile per vehicle, in lieu of the actual expenses of such transportation.

(5) Subcontracts. Expenditures by the contractor representing payments to subcontractors performing any contract work hereunder.

(6) Government-Owned or Rented Equipment. Expenditures by the contractor hereunder for protection and maintenance of Government-owned or of rented equipment.

(7) Rearrangement or Relocation. Notwithstanding paragraph (a) of the clause hereof entitled "Government Property," expenditures by the contractor for rearrangement or relocation of facilities or plant sites or for restoring such facilities or plant sites to substantially the same condition as prior to such rearrangement or relocation. Provided, however, That in the event the contractor elects to retain the benefit of such rearrangement or relocation, the contractor shall return to or credit the Government with the portion of the reimbursement by the Government for its expenditure therefor determined by negotiation between the contractor and the contracting officer to be fair and proper.

(8) Overhead. Such amounts representing contractor's overhead costs as are equal to the percentage set forth in the schedule of the amounts expended for actual and direct salaries and wages of personnel (but exclusive of premium paid for overtime hours worked by direct labor and exclusive of Federal and State social security taxes) allowable as items of cost under this clause, it having been determined by the contracting officer that, for the purpose of this contract, the foregoing computation is reasonable and that amounts so computed accurately reflect the overhead costs properly allocable to work performed under this contract.

(b) Contractor shall exercise due diligence to secure materials and services at the most advantageous prices available, having due regard to quality.

(c) Once each month (or at more frequent intervals, if approved by the Contracting Officer) the Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute "Allowable Cost." Each statement of cost shall be certified by an officer or other responsible official of the Contractor authorized by it to certify such statements.

(d) As promptly as may be practicable after receipt of each invoice or voucher and statement of cost, the Government shall, except as hereinafter provided and subject to the provisions of paragraph (3) below, make payment thereon as approved by the Contracting Officer. After payment of eighty (80) percent of the total estimated cost of performance of this contract, as from time to time amended, further payment on account of "Allowable Cost" shall be withheld until a reserve of either (i) one (1) percent of such total estimated cost, or (ii) \$10,000, whichever amount is less, shall have been set aside, such reserve or the balance thereof to be retained until the execution and delivery of a release by the Contractor as provided in paragraph (f) hereof.

(e) At any time or times prior to final payment under this contract, the Contracting Officer may cause to be made such audit of the invoice or vouchers and statements of cost as shall be deemed necessary. Each payment theretofore made shall be subject to reduction to the extent of amounts included in the related invoice or voucher and statement of cost which are found by the Contracting Officer on the basis of such audit not to constitute "Allowable Cost," and shall also be subject to reduction for overpayments or to increase for underpayments on preceding invoices or vouchers. On receipt of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and statement of cost, which shall be submitted by the Contractor as promptly as may be practicable following completion of the work under this contract but in no event later than one (1) year (or such longer period as the Contracting Officer may, in his discretion, approve in writing) from the date of such completion, and following compliance by the Contractor with all provisions of this contract (including, without limitation, provisions relating to patents and the provisions of para. (f) and (g) of this clause), the Government shall as promptly as may be practicable pay any balance of "allowable Cost".

(f) The Contractor shall execute and deliver at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor.

(2) Claims, together with reasonable expenses incidental thereto, based upon the liabilities of the Contractor to third parties arising out of the performance of the contract, which are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability) including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of the contract relating to patents.

(g) The Contractor agrees that any refunds, rebates, or credits (including any interest thereon) accruing to or received by the Contractor which arise out of the performance of this contract and on account of which the Contractor has received reimbursement shall be paid by the Contractor to the Government. The Contractor shall execute and deliver at the time of and as condition precedent to final payment under this contract, as assignment to the Government of refunds, rebates, or credits (including any interest thereon) arising out of the performance of this contract, in form

and substance satisfactory to the Contracting Officer. Reasonable expenses incurred by the Contractor for the purpose of securing any such refunds, rebates or credits shall constitute "Allowable Cost" when approved by the Contracting Officer.

(h) Any cost incurred by the Contractor under the terms of this contract which would constitute "Allowable Cost" under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at its expense or without cost to the Government.

5. RECORDS

(a) (1) The Contractor agrees to maintain books, records, documents and other evidence pertaining to the costs and expenses of this contract (hereinafter collectively called the "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract. The Contractor's accounting procedures and practices shall be subject to the approval of the Contracting Officer; provided, however, that no material change will be required to be made in the Contractor's accounting procedures and practices if they conform to generally accepted accounting practices and if the costs properly applicable to this contract are readily ascertainable therefrom.

(2) The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (4) below any of the records for inspection, audit or reproduction by an authorized representative of the Department.

(3) In the event the Contracting Officer or any of his duly authorized representatives determines that his audit of the amounts reimbursed under this contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to deliver, with the reimbursement voucher covering such charges or as may be otherwise specified within two years after reimbursement of charges

covered by any such voucher, to such representative as may be designated for that purpose through the Contracting Officer such documentary evidence in support of transportation costs as may be required by the Contracting Officer or any of his duly authorized representatives.

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available its records for a period of six years (unless a longer period of time is provided by applicable statute) from the date of the voucher or invoice submitted by the Contractor after the completion of the work under the contract and designated by the Contractor as the "completion voucher" or "completion invoice" or, in the event this contract has been completely terminated, from the date of the termination settlement agreement; provided, however, that records which relate to (A) appeals under the clause of this contract entitled "Disputes," (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs or expenses of the contract as to which exception has been taken by the Contracting Officer or any of his duly authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims, or exceptions have been disposed of, but in no event for less than the six-year period mentioned above.

(5) Except for documentary evidence delivered pursuant to subparagraph (3) above, and the records described in the proviso of subparagraph (4) above, the Contractor may in fulfillment of its obligation to retain its records as required by this clause substitute photographs, microphotographs or other authentic reproductions of such records, after the expiration of two years following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Contracting Officer with the concurrence of the Comptroller of the Contracting Government Agency or his authorized representatives.

(6) The provisions of this paragraph (a), including this subparagraph (6), shall be applicable to and included in each subcontract hereunder which is on a cost, cost-plus-a-fixed-fee, time-and-material or labor-hour basis.

(b) The Contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a) (6) above, a provision to the effect that the subcontractor agrees that the Contracting Officer or any of his duly authorized representatives, shall, until the expiration of three years after final payment under the subcontract, have access to and the right to examine any directly

pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract. The term "subcontract," as used in this paragraph (b) only, excludes (i) purchase orders not exceeding \$1,000 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

6. GOVERNMENT PROPERTY

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished Property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished Property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished Property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned by the Contractor and shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provisions affected by such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes." In the event that the Government-furnished Property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of such property, or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon written request of the Contractor shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provision affected by the return or disposition, or the repair or modification, in accordance with the procedures provided for in the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished Property or delivery of such property in a condition not suitable for its intended use.

(b) The Government may deliver to the Contractor Government-furnished Property in addition to that set forth in the Schedule or specifications. At the time of such delivery the contract may be amended, if appropriate, to accomplish an equitable adjustment in the terms and provisions thereof.

(c) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, for the cost of which the Contractor is to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is to be reimbursed to the Contractor under this contract, shall pass to and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government, whichever first occurs. All Government-furnished Property, together with all property acquired by the Contractor, title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as "Government Property."

(d) Title to the Government Property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government Property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(e) The Government Property provided or furnished pursuant to the terms of this contract shall, unless otherwise provided herein and except as may be otherwise approved by the Contracting Officer, be used only for the performance of this contract.

(f) The Contractor shall maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection and preservation of Government Property so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall take all reasonable steps to comply with all appropriate directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of the Government Property.

(g) The provisions of Part III, Appendix C, Armed Services Procurement Regulation, Manual for Control of Government Property in Possession of Non-Profit Research and Development Contractors, as in effect on the date of this contract, are herein incorporated by reference and made a part of this contract. The Contractor agrees to comply with the provisions thereof relating to the keeping of property control records, identification and marking, segregation and commingling, taking of

inventories, and control of salvage and scrap, and the Contractor also accepts the responsibilities set forth in said Part III with respect to Government Property.

(h) The Contractor agrees to make available to authorized representatives of the Contracting Officer at all reasonable times at the office of the Contractor all of its property records under this contract, and access to any premises where any of the Government Property is located.

(1) The Contractor shall not be liable for any loss of or damage to the Government Property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

i Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant, laboratory, or separate location in which this contract is being performed; or

ii Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of its directors, officers, or other representatives mentioned in subparagraph (i) above, (A) to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection and preservation of Government property as required by subparagraph (f) above, or (B) to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under subparagraph (f) above; or

iii For which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the schedule; or

iv Which results from a risk expressly required to be insured under some other provision of this contract, or of the schedules or task ordered thereunder, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

v Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement; provided that, if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the Government Property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

(3) Upon the happening of loss or destruction of or damage to the Government Property, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the Loss and Salvage Organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the Loss and Salvage Organization so designated (unless the Contracting Officer has designated that no such organization be employed), shall take all reasonable steps to protect the Government Property from further damage, separate the damaged and undamaged Government Property, put all the Government Property in the best possible order, and furnish to the Contracting Officer a statement of:

- i. The lost, destroyed and damaged Government Property,
- ii. The time and origin of the loss, destruction or damage,
- iii. All known interests in commingled property of which the Government Property is a part, and
- iv. The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovations of the damaged Government Property or take such other action as the Contracting Officer directs.

(4) In the event the Contractor is indemnified, reimbursed or otherwise compensated for any loss or destruction of or damage to the Government property, it shall use the proceeds to repair, renovate or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(5) (Where applicable). In the event any aircraft are to be furnished under this contract, any loss or destruction of, or damage to, such aircraft or other Government Property occurring in connection with operations of said aircraft will be governed by the clause of this contract captioned "Flight Risks," to the extent such clause is, by its terms, applicable.

(j) The Government Property shall remain in the possession of the Contractor for such period of time as is required for the performance of this contract unless the Contracting Officer determines that the interests of the Government require removal of such property. In such case the Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of Government Property. In any such instance, the contract may be amended to accomplish an equitable adjustment in the terms and provisions thereof.

(k) Upon completion or expiration of this contract, any Government Property which has not been consumed in the performance of this contract, or which has not been disposed of as hereinafter provided in subparagraph (l) of this clause, or for which the Contractor has not otherwise been relieved of responsibility, shall be disposed of in the same manner, and subject to the same procedures, as is provided in subparagraph (f) of the clause of this contract entitled "Termination for the Convenience of the Government" with respect to termination inventory. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract, or shall otherwise be credited to the cost of the work covered by this contract, or shall be paid in such other manner as the Contracting Officer may direct. Pending final disposition of such property, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation thereof.

(l) If the Contracting Officer determines that the interests of the Government require removal of any Government Property, or if the Contractor determines any Government Property to be in excess of its needs under this contract, such Government Property shall be disposed of in the same manner as provided by subparagraph (k) above. In the

event that the Contracting Officer requires the removal of any Government Property under this subparagraph (l) or subparagraph (k) above, the direct cost to the Contractor of such removal and of any property damage occasioned thereby shall constitute an allowable cost hereunder.

(m) Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the Contractor's plant or any portion thereof which is affected by the removal of any Government Property.

(n) Directions of the Contracting Officer and communications of the Contractor issued pursuant to this clause shall be in writing.

7. INSURANCE-LIABILITY TO THIRD PERSONS

(a) The Contractor shall procure and thereafter maintain workmen's compensation, employer's liability, comprehensive general liability (bodily injury) and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance under this contract, and such other insurance as the Contracting Officer may from time to time require with respect to performance under this contract; provided, that the Contractor in fulfillment of its obligation to procure workmen's compensation insurance may, with the approval of the Contracting Officer and pursuant to statutory authority, maintain a self-insurance program. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amounts, and for such periods of time, as the Contracting Officer may from time to time require or approve, and with insurers approved by the Contracting Officer.

(b) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement hereunder.

(c) The Contractor shall be reimbursed: (i) for the portion allocable to this contract of the reasonable cost of insurance as required or approved pursuant to the provisions of this clause, and (ii) for liabilities to third persons for loss of or damage to property (other than property (A) owned, occupied or used by the Contractor or rented to the Contractor or (B) in the care, custody, or control of the Contractor), or for death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of this contract, whether or not caused by the negligence of the Contractor, its agents, servants or employees, provided such liabilities are represented by final judgments or by settlements approved in writing by the Government, and expenses incidental to such liabilities, except liabilities (I) for which the Contractor is otherwise responsible under the express terms of the clause or clauses, if any, specified in the Schedule, or (II) with respect to which the Contractor has failed to insure as required or maintain insurance as approved by the Contracting Officer or (III) which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of this contract. The foregoing shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required to be submitted for approval or required to be procured and maintained pursuant to the provisions of this clause, provided such cost would constitute allowable cost under the clause of this contract entitled "Allowable Cost, ~~Paid For~~ and Payment."

(d) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, or prompt notice of any claim made, against the Contractor arising out of the performance of this contract, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract, and the risk of which is

then uninsured or in which the amount claimed exceeds the amount of coverage. The Contractor shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. If the amount of the liability claimed exceeds the amount of coverage, the Contractor shall authorize representatives of the Government to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. If the liability is not insured or covered by bond, the Contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith: Provided, however, That the Contractor may, at its own expense, be associated with the representatives of the Government in the settlement or defense of any such claim or litigation.

8. INSPECTION AND CORRECTION OF DEFECTS

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by the Government, to the extent practicable at all times and places including the period of manufacture, and in any event prior to final acceptance. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the supplies, fabricating methods, and special tooling hereunder. The Government, through any authorized representative, may inspect the plant or plants of the Contractor or of any of its subcontractors engaged in the performance of this contract. If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. All inspections and tests by the Government shall be performed in such a manner as will not unduly delay the work. Except as otherwise provided in this contract, final acceptance of any supplies or lots of supplies shall be made as promptly as practicable after delivery thereof and shall be deemed to have been made no later than sixty (60) days after the date of such delivery, if final acceptance has not been made earlier within such period.

(b) At any time during performance of this contract, but not later than six (6) months (or such other period as may be provided in the Schedule) after final acceptance of the supplies or lots of supplies last delivered in accordance with the requirements of this contract, the Government may require the Contractor to remedy by correction or replacement, as directed by the Contracting Officer, any supplies or lots

of supplies which at the time of delivery thereof are defective in material or workmanship or otherwise not in conformity with the requirements of this contract. Except as otherwise provided in paragraph (c) hereof, the cost of any such replacement or correction shall be included in Allowable Cost determined as provided in the clause of this contract entitled "Allowable Cost, Fixed Fee and Payment," but no additional fee shall be payable with respect thereto. Such supplies or lots of supplies shall not be tendered again for acceptance unless the former tender and the requirement of correction be disclosed. If the Contractor fails to proceed with reasonable promptness to replace or correct such supplies or lots of supplies, the Government (i) may by contract or otherwise replace or correct such supplies and charge to the Contractor any increased cost occasioned the Government thereby, or may reduce any fixed fee payable under this contract (or require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (ii) in the case of supplies not delivered, may require the delivery of such supplies, and shall have the right to reduce any fixed fee payable under this contract (or to require payment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (iii) may terminate this contract for default as provided in the clause of this contract entitled "Termination." Failure to agree to the amount of any such increased cost to be charged to the Contractor or to such reduction in, or repayment of, the fixed fee shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) Notwithstanding the provisions of paragraph (b) hereof, the Government may at any time require the correction or replacement by the Contractor, without cost to the Government, of supplies or lots of supplies which are defective in material or workmanship, or otherwise not in conformity with the requirements of this contract, if such defects or failures are due to fraud, lack of good faith or willful misconduct on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the Contractor's business, or (ii) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (iii) a separate and complete major industrial operation in connection with the performance of this contract. Fraud, lack of good faith or willful misconduct on the part of any of such supervisory personnel shall be deemed to include the selection of individual employees or the retention of employees after any of such supervisory personnel has reason to believe that such employees are habitually careless or otherwise unqualified.

(d) Corrected supplies or replaced supplies shall be subject to the provisions of this clause in the same manner and to the same extent as supplies originally delivered under this contract.

(e) The Contractor shall make its records of all inspection work available to the Government during the performance of this contract and for such longer period as may be specified in this contract.

(f) Except as provided in this clause and as may be provided in the Schedule, the Contractor shall have no obligation or liability to correct or replace supplies or lots of supplies which at the time of delivery are defective in material or workmanship or otherwise not in conformity with the requirements of this contract.

(g) Except as otherwise provided in the Schedule, the Contractor's obligation to correct or replace Government-furnished property (which is property in the possession of or acquired directly by the Government and delivered or otherwise made available to the Contractor) shall be governed by the provisions of the clause of this contract entitled "Government Property."

9. EXCUSABLE DELAYS

The Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes include, but are not restricted to: acts of God or of the public enemy; acts of the Government; fires; floods; epidemics; quarantine restrictions; strikes; freight embargoes; unusually severe weather; and failure of subcontractors to perform or make progress due to such causes, unless the Contracting Officer shall have determined that the supplies or services to be furnished under the subcontract were obtainable from other sources and shall have ordered the Contractor in writing to procure such services or supplies from such other sources, and the Contractor shall have failed reasonably to comply with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he shall determine that such failure was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the clause hereof entitled "Termination."

10. SUBCONTRACTS

(a) The Contractor shall give advance notification to the Contracting Officer of any proposed subcontract hereunder which (i) is on a cost or cost-plus-a-fixed-fee basis, or (ii) is on a fixed-price basis exceeding in dollar amount either \$25,000 or five percent (5%) of the total estimated cost of this contract.

(b) The Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which (i) is on a cost or cost-plus-a-fixed-fee basis, or (ii) is on a fixed-price basis exceeding in dollar amount either \$25,000 or five percent (5%) of the total estimated cost of this contract, or (iii) provides for the fabrication, purchase, rental, installation or other acquisition, of any item of industrial facilities, or of special tooling having a value in excess of \$1,000, or (iv) is on a time-and-material or labor-hour basis, or (v) involves research and development work. The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (b).

(c) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(d) The Contracting Officer may, in his discretion, specifically approve in writing any of the provisions of a subcontract. However, such approval or the consent of the Contracting Officer obtained as required by this cause shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost.

(e) The Contractor shall give the Contracting Officer immediate notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any subcontractor or vendor which, in the opinion of the Contractor, may result in litigation, related in any way to this contract with respect to which the Contractor may be entitled to reimbursement from the Government.

(f) The Contracting Officer may approve all or any part of the Contractor's purchasing system and from time to time rescind or reinstate such approval. Such approval shall be deemed to fulfill the requirements for obtaining the Contracting Officer's consent to subcontracts as prescribed in paragraph (b) above.

11. NOTICE AND ASSISTANCE REGARDING PATENT INFRINGEMENT

The provisions of this clause shall be applicable only if the amount of this contract is in excess of \$5,000.

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of litigation against the Government on account of any claim of patent infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, upon request, all evidence and information in possession of the Contractor pertaining to such litigation. Such evidence and information shall be furnished at the expense of the Government except in those cases in which the Contractor has agreed to indemnify the Government against the claim being asserted.

12. FILING OF PATENT APPLICATIONS

(a) Before filing or causing to be filed a patent application disclosing any subject matter of this contract, which subject matter is classified "Secret" or higher, the Contractor shall, citing the thirty (30) day provision below, transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be placed under an order of secrecy or sealed in accordance with the provisions of 35 U.S. Code 181-188 or the issuance of a patent should be otherwise delayed under pertinent statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the U.S. Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the Contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application disclosing any subject matter of this contract, which subject matter is classified "Confidential", a copy of such application for determination whether, for reasons of

national security, such application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent statutes or regulation.

(c) In filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter.

13. PATENT RIGHTS

(a) As used in this clause, the following terms shall have the meanings set forth below:

(i) The term "Subject Invention" means any invention, improvement or discovery (whether or not patentable) conceived or first actually reduced to practice (unless disclosed in a patent application filed prior to beginning the performance hereinafter set forth) either (A) in the performance of the experimental, developmental or research work called for under this contract, or (B) in the performance of any experimental, developmental or research work relating to the subject matter of this contract which was done upon the understanding that a contract would be awarded.

(ii) The term "Technical Personnel" means any person employed by or working under contract with the Contractor (other than a subcontractor whose responsibilities with respect to rights accruing to the Government in inventions arising under subcontracts are set forth in paragraph (f), (g) and (h) of this clause), provided that such person, by reason of the nature of his duties in connection with the performance of this contract, would reasonably be expected to make inventions.

(iii) The terms "subcontract" and "subcontractor" mean any subcontract or subcontractor of the Contractor, and any lower-tier subcontract or subcontractor under this contract.

(b) The Contractor agrees to and does hereby grant to the Government all right, title and interest in and to each Subject Invention provided, however, that with respect to any Subject Invention made by other than Technical Personnel and with respect to the practices of any Subject Invention in foreign countries, said grant and other rights hereinafter provided shall be limited to the Contractor's right to assign or grant the same without incurring any obligation to pay royalties or other compensation to others solely on account of said grant. The Contractor further agrees to and does hereby grant to the Government with respect to any invention disclosed in a patent application of the Contractor filed prior to beginning the performance set forth above and first actually reduced to practice by the Contractor in any such performance, an irrevocable, nonexclusive, nontransferable and royalty-free license to practice, and cause to be practiced for the Government throughout the world, each such invention in the manufacture, use, and disposition according to law, of any article or material, and in the use of any method; provided, however, that with respect to (i) any such

invention made by other than Technical Personnel and (ii) the practice of any such invention in foreign countries, the said license shall be to the extent of the Contractor's right to grant the same without incurring any obligation to pay royalties or other compensation to others solely on account of said grant.

(c) The Contractor agrees as follows: (i) to make written disclosure promptly to the Contracting Officer of each Subject Invention under which a license is acquired pursuant to paragraph (b) above, which reasonably appears to be patentable, and to exert all reasonable effort to make such disclosure not later than six months after first publication, public use or sale; (ii) to deliver to the Contracting Officer such duly executed instruments (prepared by the Government) of assignment, application papers and rightful oaths relating to each Subject Invention, title to which vests in the Government pursuant to this clause, as the Contracting Officer may require to enable the Government to file and prosecute patent applications therefor in any country, and to assign and record title to such applications; (iii) to disclose to the Contracting Officer (either by giving the patent number or a copy of the patent application), prior to completion or final settlement of this contract, each invention under which the Government has been granted a license pursuant to the second sentence of paragraph (b) above, and to deliver to the Contracting Officer duly executed instruments fully confirmatory of such license rights. If, to the best of the Contractor's knowledge and belief, no inventions have been conceived or first actually reduced to practice under this contract, the Contractor shall so certify to the Contracting Officer.

(d) The Contractor agrees to and does hereby grant to the Government, to the full extent of the Contractor's right to do so without payment of compensation to them, the right to reproduce, use and disclose for governmental purposes (including the right to give to foreign governments for the use as the national interest of the United States may demand) all or any part of the reports, drawings, blueprints, data and technical information specified to be delivered by the Contractor to the Government under this contract; provided, however, that nothing contained in this paragraph shall be deemed, directly or by implication, to grant any license under any patent now or hereafter issued or to grant any right to reproduce anything else called for by this contract.

(e) Until the Contractor has delivered to the Government the disclosures required by paragraph (d)(i) of this clause and the information as to any subcontractor required by paragraph (g) of this clause, there shall be withheld from final payment under this contract ten percent (10%) of the contract price, or \$5,000, whichever is smaller; provided however, that the withholding of the aforesaid amount, or subsequent payment thereof to the Contractor, shall not be construed as a waiver of any rights accruing to the Government under this contract; and provided further, that any amount so withheld under this paragraph shall not be in addition to any amounts withheld under other provisions of this contract. This paragraph shall not be construed as requiring the Contractor to withhold any amounts from

a subcontractor to enforce compliance with the patent provisions of a subcontract.

(f) The Contractor agrees to exert all reasonable effort to negotiate for the inclusion in any subcontract hereunder of \$3,000 or more, in which payment is to be made for experimental, developmental or research work, of this patent rights clause or one approved by the Contracting Officer. In the event of refusal by a subcontractor to accept such patent rights clause, the Contractor shall obtain the written authorization of the Contracting Officer (which authorization may be granted with respect to a particular subcontract) to proceed with the subcontract, and shall cooperate with the Government in the negotiation with such subcontractor of a mutually acceptable patent rights clause; provided however, that the Contractor shall in any event require the subcontractor to grant to the Government patent rights under Subject Inventions of no less scope and on no less favorable terms than those which the Contractor has under such subcontracts, except that in no event shall the subcontractor be required to grant to the Government patent rights in excess of those herein agreed to be granted to the Government by the Contractor.

(g) The Contractor agrees to notify the Contracting Officer in writing of any subcontract containing a patent rights clause, to furnish to the Contracting Officer a copy of such clause, and promptly to notify the Contracting Officer when such subcontract is completed. It is understood that with respect to such subcontract clause, the Government is a third party beneficiary; and the Contractor hereby assigns to the Government all the rights that the Contractor would have to enforce the obligations of the subcontract with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to a patent rights clause in any subcontract.

(h) When the Contractor shows that it has been delayed in the performance of this contract by reason of its inability to obtain, under reasonable terms that include a suitable patent rights clause, a qualified subcontractor for any particular part, item or function of this contract for which the Contractor itself does not have available facilities or qualified personnel, the Contractor's delivery dates shall be extended for a period of time equal to the duration of such delay; and, upon request of the Contractor, the Contracting Officer shall determine to what extent, if any, an additional extension of the delivery dates, and an increase in contract price based upon additional cost incurred, are proper under the circumstances; and the contract shall be modified accordingly. If the Contractor, after exerting all reasonable effort, is unable to obtain a qualified subcontractor as set forth above, the Contractor may submit to the Contracting Officer a written request for waiver or modification of the requirement that a suitable patent rights clause be included in the subcontract. Such request shall specifically state that the Contractor has used all reasonable efforts to

obtain such qualified subcontractor and shall cite the waiver or termination provision hereinafter set forth. If, within thirty-five (35) days after the date of receipt of such request for a waiver or modification of said requirement, the Contracting Officer shall fail to grant such request, the requirement shall be deemed to have been waived by the Government. If within such period the Contractor shall receive a written denial of such request by the Contracting Officer, this contract shall thereupon automatically terminate and the rights and obligations of the parties shall be governed by the provisions of the clause of this contract entitled "Termination for the Convenience of the Government" just as if a notice of termination had been delivered to the Contractor specifying that the contract was terminated for the convenience of the Government.

14. AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any patented invention in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

15. COPYRIGHT

(a) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents and employees acting within the scope of their official duties (i) all right, title and interest in all copyrightable material first produced or composed and delivered to the Government under this contract by the Contractor, its employees or any individual or concern specifically employed or assigned to originate and prepare such material; and (ii) a license as aforesaid under any and all copyrighted or copyrightable work not first produced or composed by the Contractor in the performance of this contract but which is incorporated in the material furnished under

the contract, provided that such license shall be only to the extent the Contractor now has, or prior to completion or final settlement of the contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(b) The Contractor agrees that it will exert all reasonable effort to advise the Contracting Officer, at the time of delivering any copyrightable or copyrighted work furnished under this contract, of any adversely held copyrighted or copyrightable material incorporated in any such work and of any invasion of the right of privacy therein contained.

(c) The Contractor agrees to report to the Contracting Officer, promptly and in reasonable written detail, any notice or claim of copyright infringement received by the Contractor with respect to any material delivered under this contract.

16. REPRODUCTION AND USE OF TECHNICAL DATA

The Contractor agrees to and does hereby grant to the Government, to the full extent of the Contractor's right to do so without payment of compensation to others, the right to reproduce, use, and disclose for governmental purposes (including the right to give to foreign governments for their use as the national interest of the United States may demand) all or any part of the reports, drawings, blueprints, data, and technical information specified to be delivered by the Contractor to the Government under this contract; provided, however, that nothing contained in this paragraph shall be deemed, directly or by implication, to grant any license under any patent now or hereafter issued or to grant any right to reproduce anything else called for by this contract.

17. REPORTING OF ROYALTIES

The provisions of this clause shall be applicable only if the amount of the contract is in excess of \$10,000.

(a) The Contractor shall report in writing (in quadruplicate) to the Contracting Officer as soon as practicable after execution of this contract whether or not any royalties in excess of \$250 have been paid or are to be paid by the Contractor directly to any person or firm in connection with the performance of this contract. If royalties in excess of \$250 have been paid or are to be paid to any person or firm, the report shall include the following items of information with respect to such royalties (including the initial \$250):

(1) The name and address of each licensor to whom royalties in excess of \$250 have been paid or are to be paid,

(2) The patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties,

(3) The manner of computing the royalties consisting of (i) a brief identification of each royalty-bearing unit or process, (ii) the total amount or royalties, and (iii) the percentage rate of dollars and cents amount of royalties on each such unit or process; provided that if the royalties cannot be computed in terms of units or dollars and cents value, then other data showing the manner in which the Contractor computes the royalties.

(b) In lieu of furnishing a report under paragraph (a), the Contractor may furnish a single, consolidated report for each accounting period of the Contractor during which the Contractor has contracts with the Government, provided the Contractor has requested and obtained the prior written approval of the Contracting Officer. Such consolidated report shall be furnished, when the furnishing thereof has been approved, in the number of copies as approved, as soon as practicable after the close of the accounting period covered by the report. Such consolidated report shall be made in accordance with Contractor's established accounting practice and shall include, for the accounting period, the total amount of royalties accruing to each licensor at a rate in excess of \$1,000 per annum on the Contractor's over-all business, together with (i) the name and address of each such licensor, (ii) the patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties, (iii) a brief description of the subject matter of the license under which royalties are charged, (iv) the percentage rate or unit amount, or if the royalties do not accrue by rate or unit amount, such other data showing the manner by which the royalties accrue to licensor, and (v) an estimate or approximation (without detailed accounting) of the portion of such royalties that may be attributable to Government contracts. The Contractor shall, if requested by the Government, furnish at Government expense a more detailed allocation of such royalty payments attributable to Government contracts.

(c) In the event that the Contractor requests written approval to furnish consolidated reports under paragraph (b) above, the Contracting Officer shall promptly consider the request and furnish to the Contractor a letter stating whether or not the request is approved and, notwithstanding any such approval, the Contracting Officer shall have the right to question any such subsequently furnished report as to accuracy or completeness of data and to ask for additional information. The Contractor shall furnish a copy of such letter of approval to the Contracting Officer administering this contract.

(d) After payment of eighty percent (80%) of the amount of this contract, as from time to time amended, further payment shall be withheld until a reserve of either (i) ten percent (10%) of such amount or (ii) \$5,000, whichever is less, shall have been set aside, such reserve or the balance thereof to be retained until the Contractor shall have furnished to the Contracting Officer the report called for by paragraph (a) hereof or the copy of the letter approving the Contractor's request to furnish the report under paragraph (b); provided that no amount shall continue to be withheld from payment for the causes specified in this paragraph (d) if the Contracting Officer shall find that the Contractor has not been furnished a letter as required by paragraph (c) within a reasonable time after making written request to submit a single, consolidated report under the provisions of paragraph (b) of this clause; and provided further that the Contracting Officer may, in his discretion, order payment to be withheld in the amount and manner above provided if the report called for by paragraph (a) is unsatisfactory or if the report called for by paragraph (b) is due but has not been received, or if received, is found to be unsatisfactory. No amount shall be withheld under this paragraph when the minimum amount specified by this paragraph is being withheld under other provisions of this contract. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any right accruing to the Government under this contract.

18. DISPUTES

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within 30 days from the date of receipt of such copy, the Contractor may appeal by mailing or

otherwise furnishing to the Contracting Officer a written appeal addressed to the Secretary, and the decision of the Secretary or his duly authorized representative for the hearing of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive; provided that, if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

19. BUY AMERICAN ACT

The Contractor agrees that there will be delivered under this contract only such unmanufactured articles, materials and supplies (which term "articles, materials, and supplies" is hereinafter referred to in this clause as "supplies") as have been mined or produced in the United States, and only such manufactured supplies as have been manufactured in the United States substantially all from supplies mined, produced, or manufactured, as the case may be, in the United States. Pursuant to the Buy American Act (41 U.S. Code 10a-d), the foregoing provision shall not apply (i) with respect to supplies excepted by the Secretary from the application of that Act, (ii) with respect to supplies for use outside the United States, or (iii) with respect to the supplies to be delivered under this contract which are of a class or kind determined by the Secretary or his duly authorized representative not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (iv) with respect to such supplies, from which the supplies to be delivered under this Contract are manufactures, as are of a class or kind determined by the Secretary or his duly authorized representative not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality: Provided, That this exception (iv) shall not permit delivery of supplies manufactured outside the United States if such supplies are manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

20. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

21. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

22. CONVICT LABOR

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

23. EIGHT-HOUR LAW OF 1912

This contract, to the extent that it is of a character specified in the Eight-Hour Law of 1912 as amended (40 U.S. Code 324-326) and is not covered by the Walsh-Healey Public Contracts Act (41 U.S. Code 35-45), is subject to the following provisions and exceptions of said Eight-Hour Law of 1912 as amended, and to all other provisions and exceptions of said Law:

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the Contractor or any subcontractor contracting for any part of the said work, shall be required or permitted to work more than eight hours in any one calendar day upon such work, except upon the condition that compensation is paid to such laborer or mechanic in accordance with the provisions of this clause. The wages of every such laborer and mechanic employed by the Contractor or any subcontractor engaged in the

performance of this contract shall be computed on a basic day rate or eight hours per day; and work in excess of eight hours per day is permitted only upon the condition that every such laborer and mechanic shall be compensated for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. For each violation of the requirements of this clause a penalty of five dollars shall be imposed upon the Contractor for each such laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than eight hours upon said work without receiving compensation computed in accordance with this clause; and all penalties thus imposed shall be withheld for the use and benefit of the Government.

24. NONDISCRIMINATION IN EMPLOYMENT

(a) In connection with the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of the nondiscrimination clause.

(b) The Contractor further agrees to insert the foregoing provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

25. WALSH-HEALEY PUBLIC CONTRACTS ACTS

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount which exceeds or may exceed \$10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act as amended (41 U.S. Code 35-45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

26. GRATUITIES

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, by the Secretary or his duly authorized representative, the gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performing of such contract; provided, that the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in amount (as determined by the Secretary or his duly authorized representative) which shall be not less than three nor more than ten times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

27. EMPLOYMENT OF ALIENS

No aliens employed by the Contractor shall be permitted to have access to the plans or specifications, or the work under construction, or to participate in the contract trials, without the written consent beforehand of the Secretary or his duly authorized representative.

28. ASSIGNMENTS PROHIBITED

Neither this contract, nor any interest therein, nor any claim arising hereunder, shall be transferred or assigned by the Contractor to any other person.

29. MILITARY SECURITY REQUIREMENTS

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Top Secret," "Secret," or "Confidential."

(b) The Government shall notify the contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification.

(c) To the extent the Government has indicated as of the date of this contract, or thereafter indicates, security classification under this contract as provided in paragraph (b) above, the Contractor, except as otherwise provided in this clause, shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within its own organization in accordance with the requirements of (i) the Department of Defense Industrial Security Manual for Safeguarding Classified Security Information as in effect on the date of this contract, which manual is hereby incorporated by reference and made a part of this contract; and (ii) any amendments to said manual required by the demands of national security as determined by the Government and made after the date of this contract, notice of which has been furnished to the contractor by the Contracting Officer.

(d) Designated representatives of the Government responsible for inspection pertaining to industrial security shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the requirements of the terms and conditions of this clause. Should the Government, through its authorized representative, determine that the Contractor has not complied with such requirements, the Government shall inform the Contractor in writing of the proper actions to be taken in order to effect compliance with such requirements.

(e) In the event a change in security requirements, as provided in paragraph (b) and (c), results (i) in a change in the security classification of this contract or any element thereof from a non-classified status to a classified status or from a lower classification to a higher classification, or (ii) in more restrictive area controls than previously required, the Contractor shall exert every reasonable effort compatible with its established policies to continue the performance of work under the contract in compliance with such change in security classification or requirements. If, despite such reasonable efforts, the Contractor determines that the continuation of work under this contract is not practicable because of such change in security classification or requirements, it shall so notify the Contracting Officer in writing.

(f) After receiving such written notification, the Contracting Officer shall explore the circumstances surrounding the proposed change in security classification or requirements and shall endeavor to work out a mutually satisfactory method whereby the Contractor can continue performance of the work under this contract.

(g) If, upon the expiration of fifteen (15) days after receipt by the Contracting Officer of such written notification, (i) the application to this contract of such change in security classification or requirements have not been withdrawn, or (ii) a mutually satisfactory method for continuing performance of work under this contract has not been agreed upon, the Contractor may request the Contracting Officer to terminate the contract whole or in part. Thereupon, the Contracting Officer shall terminate the contract in whole or in part, as may be appropriate, and such termination shall be deemed a termination under the provisions of the clause of this contract entitled "Termination for the Convenience of the Government".

(h) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (h), but excluding paragraphs (e), (f), and (g) of this clause.

(i) The Contractor also agrees that it shall determine that any sub-contractor proposed by it for the furnishing of supplies and services which will involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance which is still in effect, prior to being accorded access to such classified information.

30. UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the Government as declared by the Congress to bring about the greatest utilization of small business concerns which is consistent with efficient production.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

31. TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT

(a) The performance of work under this contract may be terminated, in whole or from time to time in part, by the Government whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government. Termination of work hereunder shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated and the date upon which such termination becomes effective.

(b) After receipt of the Notice of Termination the Contractor shall cancel its outstanding commitments hereunder covering the procurement of materials, supplies, equipment and miscellaneous items. In addition the Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of its outstanding commitments covering personal services and extending beyond the date of such termination to the extent that they relate to the performance of any work terminated by the notice. With respect to such cancelled commitments the Contractor agrees to (i) settle all outstanding liabilities and all claims arising out of such cancellation of commitments, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all purposes of this clause, and (ii) assign to the Government, in the manner, at the time, and to the extent directed by the Contracting Officer, all of the right, title and interest of the Contractor under the Orders and Subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(c) The Contractor shall submit its termination claim to the Contracting Officer promptly after receipt of a Notice of Termination, but in no event later than two years from the effective date thereof, unless one or more extensions in writing are granted by the Contracting Officer upon written request of the Contractor within such two year period or authorized extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the Termination and shall thereupon pay to the Contractor the amount so determined.

(d) Any determination of costs under paragraph (c) shall be governed by the cost principles set forth in paragraph 8-406 of Section VIII of the Armed Services Procurement Regulation, as in effect on the date of this contract.

(e) Subject to the provisions of paragraph (c) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the termination under this clause, which amount or amounts may include any reasonable cancellation charges thereby incurred by the Contractor and any reasonable loss upon outstanding commitments for personal services which it is unable to cancel; provided, however, that in connection with any outstanding commitments for personal services which the Contractor is unable to cancel, the Contractor shall have exercised reasonable diligence to divert such commitments to its other activities and operations. Any such agreement shall be embodied in an amendment to this contract and the Contractor shall be paid the agreed amount.

(f) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of this contract whenever, in the opinion of the Contracting Officer, the aggregate of such payments is within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, provided that if such excess is not so paid upon demand, interest thereon shall be payable by the Contractor to the Government at the rate of 6% per annum, beginning 30 days from the date of such demand.

(g) The Contractor agrees to transfer title and deliver to the Government, in the manner, at the time and to the extent, if any, directed by the Contracting Officer, such information and items which, if the contract had been completed, would have been required to be furnished to the Government, including (i) completed or partially completed plans, drawings and information, and (ii) materials or equipment produced or in process or acquired in connection with the performance of the work terminated by the notice. Other than the above any termination inventory resulting from the termination of the contract may, with the written approval of the Contracting Officer, be sold or acquired by the Contractor under the conditions prescribed by and at a price or prices approved by the Contracting Officer. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of work covered by this contract or paid in such other manner as the Contracting Officer may direct. Pending final disposition of property arising from the termination, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

(h) Any disputes as to questions of fact which may arise hereunder shall be subject to the "Disputes" clause of this contract.

32. NEGOTIATED OVERHEAD RATE

(a) Notwithstanding the provisions of the clause of this contract entitled ALLOWABLE COST AND PAYMENT the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible but not later than six (6) months after the expiration of each period specified in the Schedule shall submit to the Contracting Officer a proposed final overhead rate or rates for that period based on the Contractor's cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly

as practicable after receipt of the Contractor's proposal.

(c) Allowability of cost and acceptability of cost allocation methods shall be determined in accordance with ASPR, Section XV, Part 3, as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in an amendment to this contract, which shall specify (i) the agreed final rate, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, and (iv) the specific items treated as direct costs or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the Schedule or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, the provisional or billing rates may, at the request of either party, be revised by mutual agreement, either retroactively or prospectively. Any such revision of negotiated provisional rates provided in the Schedule shall be set forth in an amendment to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the clause of this contract entitled "Disputes."

33. ALTERATIONS IN CONTRACT - The following alterations were made in this contract prior to signature thereof by the parties to this contract:

General Provision 2, CHARGES, was deleted.

General Provision 7, INSURANCE-LIABILITY TO THIRD PERSONS, Paragraph (c), last line, the words "Fixed Fee" were deleted.